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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/079,498	02/22/2002	Shigeru Hosoe	02860.0707	9353

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EXAMINER

LOPEZ, CARLOS N

ART UNIT PAPER NUMBER

1731

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/079,498

Applicant(s)

HOSOE, SHIGERU

Examiner

Carlos Lopez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 36-67 is/are pending in the application.
- 4a) Of the above claim(s) 36-51 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 52-67 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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As previously noted claims 52-67, are withdrawn for being drawn to a non-elected invention.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 52-67 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The originally filed specification does not disclose a die base body having a reference surface wherein a processing machine is attached to the die base body on the basis of the reference surface. The specification does provide for a processing machine to shave part of the die base but does not provide support for the process machine be attached to the die base body on the reference surface of the die base body.

Furthermore, claim 52 recites a reference surface on the base body and additional die face, when in fact the specification refers to a molding surface as either a reference surface or a die face. Hence, applicant is now essentially claiming a die base body having two molding surfaces, a limitation not supported by the specification.

Applicant is also referred to previous claim 1 wherein the die face refers to the surface, of the die base, that corresponds to an optical element surface or a

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dimensional reference surface. The specification does not explicitly recite or imply that it provides a die base body having a reference surface and a die face.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 52-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if the claimed molding die is being claimed in combination with the processing machine, since the processing machine is part of the process limitation forming a die face on the die base body.

For examination purposes, claim 52 will be read as claiming a die base body made of an amorphous alloy having a reference surface and a die face.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 52-64 and 67 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over JP 10-217 257 ('257), for which the machine translation is being referred. Machine translation of '257, paragraph 5 and 22 disclose an amorphous alloy mold base 1a and 1b having a super-cooled liquid phase containing, among other elements, aluminum at a 10mol%. The claimed die face is deemed as cavity section 8, formed by the pressing of master die 4 onto mold base 1a, and wherein the claimed reference surface is deemed as the surface of the mold surrounding the cavity section 8. Claims 1, 3-18 and 21 have been treated as product by process claims. As noted in MPEP 2113:

"[E]ven though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process." In re Thorpe, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985).

In the instant case the claimed process as recited in claims 1, 3-9 and 21 are deemed to not add further structural limitations that would distinguish the claimed mold die with the mold die of the '275 reference. Alternatively, even if its deemed that the process limitation does further add structural limitations, it would have been obvious to a person of ordinary skill in the art at the time the invention was made that said processes steps are taken to form the mold base of '257.

In regards to claims 56-62, the process limitations refer to an alternative function of the mold, molding optical elements, and which in view that the mold face of '257 has the claimed hollows and protrusion, it would be expected to have the claimed effect on the optical element being worked on by the mold.

As for claims 63-64, '257 notes that the hardness HV is noted as 510, see machine translation paragraph 22.

Claims 65-66 are rejected under 35 U.S.C. 103(a) as unpatentable over JP 10-217 257 ('257), the machine translation is being referred, as applied to claim 1 above and in further view of Inoue et al (US 6,521,058). '257 is silent adding palladium to the amorphous alloy composition. However, Inoue teaches that adding palladium to the composition of an alloy, strengthens it (Col.3, lines 3-8). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to have added palladium to the alloy composition of '257 in order to strength the resultant mold.

In regards to claim 66, it would have been obvious to a person of ordinary skill in the art to conduct routine experiments to determine the optimum amount of palladium added to the alloy composition in view of Inoue teaching that palladium strengthens alloys.

### ***Response to Arguments***

Applicant's arguments with respect to claims 52-67 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

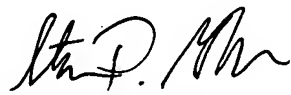
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CL

  
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